## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:03-cr-00054-GCM-SCR

UNITED STATES OF AMERICA,		)	
	Plaintiff,	)	
		)	
<b>v.</b>		)	
		ORDER OF CONTINUI	NG
JAMES DAVID NICHOLS,		) <u>GARNISHMENT</u>	
	Defendant,	)	
		)	
and		)	
		)	
FIBRIX, LLC,		)	
	Garnishee.	)	
		)	

**THIS MATTER** is before the Court on the Government's Motion for Order of Continuing Garnishment (Doc. No. 87) upon the Answer of Fibrix, LLC, as the Garnishee (Doc. No. 86). An Amended Judgment in the criminal case was entered on August 15, 2006. (Doc. No. 70). As part of that Judgment, Defendant, James David Nichols, was ordered to pay an assessment of \$100.00 and restitution of \$4,417.00 to the victim of his crime. <u>Id.</u>

On March 21, 2024, the Court entered a Writ of Continuing Garnishment ("Writ") (Doc. No. 83) as to Garnishee. Defendant was served with the Writ and Instructions notifying him of his right to request a hearing on March 26, 2024. (Doc. No. 85, 87 Ex. A). Garnishee was served with the Writ and Instructions on March 26, 2024. (Doc. No. 87 Ex. A). Garnishee filed an Answer on April 15, 2024, stating that at the time of service of the Writ, Garnishee had in its custody, control, or possession property or funds owned by Defendant, including nonexempt, disposable earnings. (Doc. No. 86). Garnishee certified that it served the Answer on Defendant on April 9, 2024. <u>Id.</u> Defendant did not request a hearing, and the statutory time to do so has elapsed.

IT IS THEREFORE ORDERED that an Order of Continuing Garnishment is hereby **ENTERED** in the amount of \$1,441.04 computed through March 20, 2024. Garnishee shall pay the United States up to the lesser of:

- 1. twenty-five percent (25%) of Defendant's disposable earnings which remain after all deductions required by law have been withheld, or
- 2. the amount by which Defendant's disposable earnings for each week exceed thirty (30) times the federal minimum wage.

<u>See</u> 15 U.S.C. § 1673(a). Garnishee shall continue payments until the debt to the United States is paid in full or until Garnishee no longer has custody, possession, or control of any property belonging to Defendant or until further Order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to:

CLERK OF THE UNITED STATES DISTRICT COURT
ATTN: FINANCE DEPARTMENT
401 WEST TRADE STREET
CHARLOTTE, NORTH CAROLINA 28202

To ensure that each payment is credited properly, the following should be included on each check: Defendant's Name James David Nichols and Case Number DNCW3:03CR54.

IT IS FURTHER ORDERED that Garnishee shall advise this Court if Defendant's employment is terminated at any time by Garnishee or Defendant.

IT IS FURTHER ORDERED that United States shall submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment Defendant would normally receive may be offset and applied to this debt.

Signed: May 22, 2024

SO ORDERED.

Susan C. Rodriguez
United States Magistrate Judge